

Docket: AP9671  
Serial No. 10/031,686

PATENT

**REMARKS**

Applicants have carefully reviewed the Office Action dated April 20, 2004 (Paper No. 041004) and thank the Examiner for the detailed review of the pending claims. Claims 16, 26, 28 and 29 have been amended. By this Amendment, claims 16-23 and 25-30 remain pending. Applicants respectfully request reconsideration of the present application in view of the following remarks.

**Detailed Action**

As suggested by the Examiner and supported by the Specification, claim 26 has been amended to correspond with the disclosure in the Specification.

**Claim Rejection under 35 U.S.C. §103(a)**

1. Claims 16-21 and 25-28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Janssen et al (DE 197 05 948) in view of Monzaki (U.S. Patent No. 5,570,935). The rejection is respectfully traversed.
2. Claims 22-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Janssen in view of Monzaki, and in further view of Saeki et al (U.S. Patent No. 5,748,503). The rejection is respectfully traversed.
3. Claim 29 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Matsuda (JP 10-29519) in view of Janssen. The rejection is respectfully traversed.
4. Claim 30 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Matsuda in view of Janssen and in further view of Saeki and Monzaki. The rejection is respectively traversed.

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Janssen discloses dampening wheel vibrations or drivetrain vibrations for one wheel at a time. Specifically, Janssen teaches that drive wheel 1 and drive wheel 2 may begin to vibrate starting roughly from time  $t_0$ . However, the vibrations felt by drive wheel 2 are not "recognized" or does not lead to dampening measures because a vibration recognition takes place only on wheel 1 first. Janssen teaches that by (recognizing and) limiting the dampening measures to one defined drive wheel, it becomes possible to provide a radical, "drastic" dampening measure that leads to the decay of the drivetrain vibrations in a very short time. *See Claim 1 and page 6, lines 13-20.* In other words, Janssen teaches a method of dampening wheel vibrations after recognizing the vibration of only one wheel.

In contrast, Applicant's claimed invention is directed toward detecting or identifying a gravel road after predetermined conditions for a gravel road are identified for both wheels on one side of a vehicle or both wheels of an axle of a vehicle with all-wheel drive, or when the above-mentioned conditions for a gravel road were identified for both wheels on the driven axle of a vehicle with one driven axle. Once a gravel road has been detected and evaluated based upon both wheels, a corresponding control function of the vehicle control system is activated. *See Specification, paragraph 16.*

Claims 16, 28 and 29 have been amended to reflect that a gravel road is detected, and a corresponding control function of the vehicle is activated, based upon detection and evaluation of at least two wheels. As stated above, Janssen teaches a method of dampening wheel vibrations after recognizing the vibration of only one wheel. Thus, Janssen teaches away from Applicant's claimed invention.

The Examiner relies upon the combination of Janssen with Monzaki, Sacki and Matsuda to teach Applicant's claimed invention. However, the references relied upon are directed towards vehicle speed, vehicle acceleration or vehicle deceleration based upon one wheel.

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To establish a *prima facie* case of obviousness, three criteria must be established. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach all the claim limitations. *See MPEP 2143*.

Accordingly, Janssen, taken singly or in combination with Monzaki, Saeki or Matsuda, fails to teach, disclose or suggest all the claim limitations of Applicant's claimed invention. Moreover, since Janssen teaches away from Applicant's claimed invention, there is no reasonable expectation of success in combining Janssen with Monzaki, Saeki or Matsuda. Thus, the Examiner has failed to establish a *prima facie* case of obviousness as required under 35 U.S.C. § 103(a). Withdrawal of the rejection is respectfully requested.

It is respectfully submitted that since Claims 17-23 and 25-27 depend directly from Claim 16, and Claim 30 depends from Claim 29, Claims 17-23, 25-27 and 30 are allowable for at least the same reasons as Claims 16 and 29. Withdrawal of the rejection is respectfully requested.

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CONCLUSION

Any fees due with the filing of the paper are set forth on the attached fee transmittal. However, if any additional fees are required in connection with the filing of this paper, permission is given to charge account number 50-3145 in the name of Honigman Miller Schwartz and Cohn LLP.

Respectfully submitted,

Date: September 8, 2004

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